



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

CLEM C MARTIN DC
207 EAST 6TH STREET
BONHAM TX 75418

Respondent Name

LUMBERMENS MUTUAL CASUALTY CO.

Carrier's Austin Representative Box

Box Number 21

MFDR Tracking Number

M4-08-3375-01

MFDR Date Received

JANUARY 28, 2008

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary:

- "Services in dispute are standard Evaluation and Management Procedures found in Current Procedural Therapy Coding and are essential to proper planning, maximization of claimant health care, expedition of recovery and cost containment.
- Disputed amounts should be reimbursed based upon SOAH Decision in Docket No. 453-05-679*9.M5; TWCC NR No. M5-05-2191-01. Same dispute-same claimant-same carrier-same carrier violation.
- §408.021 Entitlement to Medical Benefits
§408.027 Payment of Healthcare Provider
You should be familiar with these Code provisions
- There is no such issue! Carrier simply does not want to pay. SOAH/Decision No. 453.05-6799.M5 resolved this issue ordering payment of very same services carrier now redundantly disputes. IT DOES NOT GET MORE SIMPLE!!!."

Amount in Dispute: \$462.35

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This medical dispute concerns reimbursement for treatment the requestor provided to the claimant between March 16, 2007 and December 5, 2007. The carrier submits that all fee reductions were made in accordance with the applicable fee guidelines. The carrier further notes that reimbursement is not due for many of the services underlying the disputed charges because the services were included in other services that were separately reimbursed on the same date(s) of service. Reimbursement is not due for services that are 'global' to other services."

"

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 16, 2007 March 19, 2007 April 27, 2007 May 7, 2007 May 9, 2007 June 18, 2007 August 29, 2007 October 15, 2007 November 5, 2007 November 7, 2007 December 5, 2007	CPT Code 94760	\$2.71/each	\$0.00
March 16, 2007 April 27, 2007 May 7, 2007 May 9, 2007 June 18, 2007 August 29, 2007 October 15, 2007 November 5, 2007 December 5, 2007	CPT Code 92531	\$16.00/each	\$0.00
March 16, 2007 April 27, 2007 May 7, 2007 May 9, 2007 June 18, 2007 August 29, 2007 October 15, 2007 November 5, 2007 November 7, 2007 December 5, 2007	CPT Code 92532	\$22.00/each	\$0.00
June 18, 2007	CPT Code 99213-25	\$61.63	\$61.63
June 18, 2007	CPT Code 98940	\$28.94	\$28.91
TOTAL		\$462.35	\$90.54

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.202, effective August 1, 2003, sets the reimbursement guidelines for the disputed services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated

- W1-Workers Compensation State Fee Schedule Adjustment;
- 593-Payment for this service is always subsumed or bundled into payment for another service, no separate payment is made;
- 375-001-Pulse oximetry codes 94760-94761 should not be billed in addition to most procedures (including E/M services);
- 97-The benefit for this service is included in the payment/allowance for another service/procedure that

has already been adjudicated;

- 900-Based on further review, no additional allowance is warranted;
- W4-No additional reimbursement allowed after review of appeal/reconsideration;
- 18-Duplicate claim/service;
- 476-\$319.81 of the charges are duplicates of bill # 868-H-7839181-1
- Bill Notes – Medicare guidelines indicate that payment for procedure codes indicated as bundled is always subsumed or bundled into payment for another service and no separate payment is made. Therefore, if a procedure code indicated as bundled is billed, it will be denied. Some codes on the Medicare list have state specific guidelines and are therefore not on this rule; and
- Bill Notes – Pulse oximetry codes 94760-94761 should not be billed in addition to most procedures (including E/M services). Ingenix assumes the pulse oximetry is utilized for routine monitoring of arterial oxygenation during patient examination or during diagnostic or therapeutic interventions and therefore this service is considered incidental to the primary procedure. Power Trak will disallow pulse oximetry codes billed with other CPT codes unless the modifier indicating that the procedure is a distinct procedural service is used.”

Neither the Requestor nor the Respondent provided reconsideration EOB's for the disputed dates of service June 18, 2007. In accordance with Rule 133.307(c)(2)(B), the Requestor has submitted convincing evidence of carrier receipt of the provider request for an EOB. Therefore, the disputed services rendered on this date will be reviewed in accordance with Rule 134.202.

On March 24, 2009, the Division contacted the Requestor and verified that payment had been received for CPT codes 99213-25 and 98940 rendered on December 5, 2007. These services are withdrawn from the dispute and will not be considered further. The total amount sought in above has been adjusted to reflect this payment.

Issues

1. Is CPT code 97460 unbundled from another service billed on disputed dates of service?
2. Is CPT code 92531 unbundled from another service billed on disputed dates of service?
3. Is CPT code 92532 unbundled from another service billed on disputed dates of service?
4. Is the requestor entitled to reimbursement for CPT code 98940?
5. Is the requestor entitled to reimbursement for CPT code 99213-25?

Findings

1. CPT code 94760 is defined as “Noninvasive ear or pulse oximetry for oxygen saturation; single determination.” Per 28 Texas Administrative Code § 134.202(b), CPT code 94760 is included in the E&M service and should not be billed separately. On the disputed dates listed above, the provider billed for both an E&M code and 94760; therefore, reimbursement is not recommended.
2. CPT code 92531 is defined as “Spontaneous nystagmus, including gaze.” Per 28 Texas Administrative Code §134.202(b), CPT code 92531 is included in the E&M service and should not be billed separately. On the disputed dates listed above, the provider billed for both an E&M code and 92531; therefore, reimbursement is not recommended.
3. CPT code 92532 is defined as “Positional nystagmus test.” Per 28 Texas Administrative Code §134.202(b), CPT code 92532 is included in the E&M service and should not be billed separately. On the disputed dates listed above, the provider billed for both an E&M code and 92532; therefore, reimbursement is not recommended.
4. CPT code 98940 is defined as “Chiropractic manipulative treatment (CMT); spinal, 1-2 regions.” The maximum allowable reimbursement, (MAR), under Rule 134.202(c), is determined by locality. Per review of Box 32 on CMS-1500, zip code 75418 is located in Fannin County. The MAR for CPT code 98940 in Fannin County (Rest of Texas) is \$28.91 (\$23.13 X 125%). This amount is recommended for payment per 28 Texas Administrative Code § 134.202.
5. CPT code 99213-25 is defined as “Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: An expanded problem focused

history; An expanded problem focused examination; Medical decision making of low complexity. Counseling and coordination of care with other providers or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Physicians typically spend 15 minutes face-to-face with the patient and/or family.” Per 28 Texas Administrative Code §134.202(b), billing for a chiropractic manipulative treatment in conjunction with an Evaluation and Management service may be reported separately using modifier “-25” if the patient’s condition requires a significant separately identifiable E/M service. The provider documented that claimant’s pain was due to an exacerbation of the L4-5 disc. The submitted documentation supports billing of CPT code 99213-25. The Requestor correctly billed for the office visit using modifier “-25.” The MAR for CPT code 99213-25 in Fannin County (Rest of Texas) is \$70.04 (\$56.03 X 125%) or less. The Requestor is seeking a lesser amount of \$61.63. Per 28 Texas Administrative Code §134.202(d) “reimbursement shall be the least of the (1) MAR amount as established by this rule; (2) health care provider’s usual and customary charge; or (3) health care provider’s workers’ compensation negotiated and/or contracted amount that applies to the billed service(s).” The requestor’s usual and customary amount of \$61.63 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$90.54.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$90.54 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

10/17/2013

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.